

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALICE KRAMER, as Personal Representative  
of the Estate of Arthur Kramer,

Plaintiff,

—against—

LOCKWOOD PENSION SERVICES, INC.,  
ET AL.,

Defendants.

Case No.: 08 CV 2429-DAB-MHD

AFFIDAVIT OF KATHERINE L. VILLANUEVA

STATE OF PENNSYLVANIA     )  
  )     SS:  
COUNTY OF PHILADELPHIA    )

Katherine L. Villanueva, being duly sworn, affirms the following under penalties of perjury:

1. I am a member of the Bar of the State of New York, am admitted to practice in the Southern District of New York, and am an associate of the law firm of Drinker Biddle & Reath LLP, attorneys for Defendant Lincoln Life & Annuity Company of New York in the above-entitled action. I am familiar with all the facts and circumstances herein. I make this affidavit in support of the Memorandum of Law of Lincoln Life & Annuity Company of New York in Support of Its Motion to Dismiss the Amended Complaint.

2. Attached as Exhibit A to the Memorandum of Law of Lincoln Life & Annuity Company of New York in Support of Its Motion to Dismiss the Amended Complaint is a true and correct copy of *Pappas v. Passias*, 1998 U.S. App. LEXIS 30914 (2d Cir. Dec. 1, 1998).

3. Attached as Exhibit B to the Memorandum of Law of Lincoln Life & Annuity Company of New York in Support of Its Motion to Dismiss the Amended Complaint is a true and correct copy of *Blakely v. Cardozo*, 2007 U.S. Dist. LEXIS 68398 (S.D.N.Y. Sept. 18, 2007).

4. Attached as Exhibit C to the Memorandum of Law of Lincoln Life & Annuity Company of New York in Support of Its Motion to Dismiss the Amended Complaint is a true and correct copy of *Kendall v. Employees Ret. Plan of Avon, Prods.*, 2007 U.S. Dist. LEXIS 68743 (S.D.N.Y. Sept. 14, 2007).

5. Attached as Exhibit D to the Memorandum of Law of Lincoln Life & Annuity Company of New York in Support of Its Motion to Dismiss the Amended Complaint is a true and correct copy of *New York 10-13 Ass'n v. City of New York*, 1999 U.S. Dist. LEXIS 3733 (S.D.N.Y. Mar. 30, 1999).

6. Attached as Exhibit E to the Memorandum of Law of Lincoln Life & Annuity Company of New York in Support of Its Motion to Dismiss the Amended Complaint is a true and correct copy of *See Eaton Vance Mgmt. v. Forstmannleff Assoc.*, 2006 U.S. Dist. LEXIS 55741 (S.D.N.Y. Aug. 11, 2006).


7. Attached as Exhibit F to the Memorandum of Law of Lincoln Life & Annuity Company of New York in Support of Its Motion to Dismiss the Amended Complaint is a true and correct copy of *Lewis v. Wal-Mart Stores, Inc.*, 2005 U.S. Dist. LEXIS 34470 (N.D. Okla. Dec. 1, 2005).

Dated: June 3, 2008

  
Katherine L. Villanueva

Sworn to before me this

3<sup>rd</sup> day of June 2008

  
Notary Public

